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N.A., successor trustee to Bank of
America, N.A., successor in interest
to LaSalle Bank N.A., as trustee,
on behalf of the holders of the
Washington Mutual Mortgage
Pass-Through Certificates,
WMALT Series 2005-10*

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

U.S. BANK N.A., SUCCESSOR TRUSTEE
TO BANK OF AMERICA, N.A.,
SUCCESSOR IN INTEREST TO
LASALLE BANK N.A., AS TRUSTEE, ON
BEHALF OF THE HOLDERS OF THE
WASHINGTON MUTUAL MORTGAGE
PASS-THROUGH CERTIFICATES,
WMALT SERIES 2005-10,

Plaintiff,

vs.

SFR INVESTMENTS POOL 1 LLC, a
Nevada limited liability company;
SHERMAN OAKS ESTATES OWNERS
ASSOCIATION, a Nevada non-profit
corporation.

Defendant.

SFR INVESTMENTS POOL 1, LLC, a
Nevada limited liability company,

Counter/Cross-claimant,

vs.

Case No. 2:16-cv-02801-JCM-GWF

**JOINT MOTION TO AMEND
DISCOVERY PLAN AND
SCHEDULING ORDER**

(First Request)

1 U.S. BANK N.A., SUCCESSOR TRUSTEE
 2 TO BANK OF AMERICA, N.A.,
 3 SUCCESSOR IN INTEREST TO
 4 LASALLE BANK N.A., AS TRUSTEE, ON
 5 BEHALF OF THE HOLDERS OF THE
 6 WASHINGTON MUTUAL MORTGAGE
 7 PASS-THROUGH CERTIFICATES,
 8 WMALT SERIES 2005-10; DAVID L.
 9 MCCOY, an individual; PAMELA MCCOY,
 10 an individual,

11 Counter/Cross-defendants.

12 Plaintiff/Counter-Defendant U.S. Bank N.A., successor trustee to Bank of
 13 America, N.A., successor in interest to LaSalle Bank N.A., as trustee, on behalf of
 14 the holders of the Washington Mutual Mortgage Pass-Through Certificates,
 15 WMALT Series 2005-10 (the "Trustee") and Defendant Sherman Oaks Estates
 16 Owners Association ("Sherman Oaks") (collectively, the "Moving Parties") hereby
 17 submit this Joint Motion to Amend the Joint Discovery Plan and Scheduling Order
 18 pursuant to LR 6-1 and 26-4.

19 MEMORANDUM OF POINTS AND AUTHORITIES

20 **I. STATEMENT OF FACTS**

21 1. The complaint was filed in this matter on December 6, 2016, and
 22 service was effected on SFR and Sherman Oaks on December 13, 2016.

23 2. On January 10, 2017, Sherman Oaks filed a motion to dismiss and a
 24 motion for a more definitive statement. Trustee timely opposed those motions, and
 25 Sherman Oaks filed its replies in support on January 27, 2017.

26 3. On January 17, 2017, SFR filed a motion to certify a question of law to
 27 the Nevada Supreme Court, its answer, and a counterclaim against Trustee and
 28 David L. McCoy, the borrower under the note and deed of trust held by Trustee.

4. Trustee filed a timely opposition to SFR's motion to certify on January
 31, 2017, and SFR filed its reply on February 3, 2017.

1 5. Trustee replied to SFR's counterclaim on February 7, 2017. Mr.
2 McCoy was served with SFR's counterclaim on February 17, 2017, but has not
3 answered or otherwise responded.

4 6. Thereafter the parties conferred and filed with the court a proposed
5 discovery plan and scheduling order in compliance with Local Rule 26-1, setting
6 July 10, 2017 as the discovery cutoff.

7 7. In compliance with the discovery plan and scheduling order, Sherman
8 Oaks served its initial disclosures on March 14, 2017, and Trustee and SFR served
9 their initial disclosures on March 24, 2017.

10 The Moving Parties have been diligently prosecuting this matter without
11 intentional delays. However, the Moving Parties agree that an extension of the
12 discovery deadline and corresponding deadlines is necessary and warranted. The
13 early months of this case were consumed with motion practice on the Defendants'
14 various motions and additional pleadings and, accordingly, discovery could not
15 begin in earnest until the parties initial disclosures were produced by March 24,
16 2017, pursuant to the scheduling order. In responding to the discovery propounded
17 to date, it has become clear the Moving Parties require additional time to provide
18 complete and accurate discovery responses, and the discovery deadline now looms
19 over the expected response timelines. To allow the parties to conduct complete
20 discovery in this matter, the Moving Parties therefore request and stipulate to a 90
21 day extension of the current discovery deadline pursuant to Local Rule 7-1.

22 **II. LOCAL RULE 26-4 REQUIREMENTS**

23 A. Discovery Completed

24 Sherman Oaks has completed the following:

- 25 i. Service of its Initial Disclosures Pursuant to F.R.C.P. 26(a)(1);
- 26 ii. Production of Documents (100 pages, unstamped)
- 27 iii. Service of its Interrogatories to Trustee;

28 Trustee has completed the following:

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i. Service of its Initial Disclosures Pursuant to F.R.C.P. 26(a)(1);
 ii. Production of Documents USB-BS_000001 to USB-BS-000028;
 SFR has completed the following:

i. Service of its Initial Disclosures Pursuant to F.R.C.P. 26(a)(1);
 ii. Production of Documents SFR0001 to SFR0253;
 iii. Designation of expert witness;

B. Discovery to be Completed

The Moving Parties anticipate the following:

i. Continued production of documents as they are located;
 ii. Designation of rebuttal expert witnesses, if any;
 iii. Service of additional Written Discovery, including
 Interrogatories, Requests for Production of Documents, and
 Requests for Admission;
 iv. Service of additional responses to Written Discovery, including
 Interrogatories, Requests for Production of Documents, and
 Requests for Admission;
 v. Issuance of Subpoenas Duces Tecum for relevant non-parties;
 vi. Scheduling of depositions for parties and relevant non-party
 witnesses.

C. Good Cause Exists for Extending Discovery Plan Deadlines

As detailed above, the early months of this case involved substantial briefing on dispositive motions, and the parties only began discovery in earnest after the service of initial disclosures on March 24, 2017. Trustee requires additional time to respond to discovery requests propounded by Sherman Oaks, and the Moving Parties anticipate additional time will be necessary to complete written discovery, schedule depositions of relevant witnesses, and seek further discovery from third parties. Accordingly, to permit the parties sufficient time to conduct meaningful

1 discovery, the Moving Parties agree it is necessary and beneficial to extend the
2 discovery deadline by 90 days.

3 D. Proposed Schedule for Completing All Remaining Discovery

4 By this Joint Motion, the Moving Parties seek to amend the schedule as set
5 forth on p. 3 of the Scheduling Order to extend the following deadlines by ninety
6 (90) days:

7 A. Discovery cutoff: Monday, October 9, 2017;

8 B. Dispositive motions: Tuesday, November 7, 2017;

9 C. Joint proposed pretrial order: Thursday, December 7, 2017. Pursuant
10 to LR 26-1(b)(5), if dispositive motions are filed, this deadline will be suspended
11 until 30 days after decision of the dispositive motions or further order of the Court.

12 The Moving Parties also agree and stipulate to extend the deadline for
13 rebuttal expert disclosures by 30 days:

14 D. Rebuttal expert disclosures: Wednesday, July 12, 2017.
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CONCLUSION

For the above-stated reasons, the Moving Parties respectfully request that this Court enter an Order granting this Joint Motion to Amend the Discovery Plan and Scheduling Order using the new deadlines noted above.

Dated this 30th day of May, 2017.

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Attorneys for Plaintiff

Dated this 30th day of May, 2017.

DENNETT WINSPEAR, LLP

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*Attorney for Sherman Oaks Estates
Owners Association*

ORDER

IT IS SO ORDERED.


UNITED STATES MAGISTRATE JUDGE

Dated: 6/01/2017